

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASSIOPEIA IP LLC,

CASE NO. 2:22-cv-01521-JHC

Plaintiff,

ORDER

V.

SYNOLOGY AMERICA CORP.,

Defendant.

Plaintiff filed this patent-infringement action on October 26, 2022. Dkt. # 1. Federal Rule of Civil Procedure 4(m) requires service of process within “90 days after the complaint is filed.” Fed. R. Civ. P. 4(m). Accordingly, service was required by January 24, 2023. On February 3, 2023, the Court issued an Order to Show Cause as to why the action should not be dismissed for failure to comply with Rule 4(m). Dkt. # 6. Plaintiff responded on February 13, 2023. Dkt. # 8. According to Plaintiff’s counsel, the failure to timely serve Defendant was the product of a “clerical error.” *Id.* at 2; *see also id.* (“[A]n entry had been made on my firm’s internal records that the Complaint and summons was out for service.”).¹

¹ Plaintiff has apparently since effectuated service. Dkt. # 7. But that does not affect the analysis here.

1 Rule 4(m) “requires a district court to grant an extension of time when the plaintiff shows
2 good cause for the delay.” *Efaw v. Williams*, 473 F.3d 1038, 1040 (9th Cir. 2007) (emphasis
3 omitted). “Courts have discretion under Rule 4(m), absent a showing of good cause, to extend
4 the time for service or to dismiss the action without prejudice.” *In re Sheehan*, 253 F.3d 507,
5 513 (9th Cir. 2001).

6 A clerical error or oversight by counsel does not constitute “good cause.” *See, e.g.*,
7 *Rodriguez v. Pfeiffer*, No. 121CV00572JLTEPGPC, 2022 WL 686454, at *2 (E.D. Cal. Mar. 8,
8 2022) (“Counsel’s mistake or oversight does not constitute good cause for an extension of time
9 under Rule 4.”); *James v. Cnty. of Sacramento*, No. 2:18-CV-00180-TLN-DB, 2022 WL
10 2533484, at *4 (E.D. Cal. July 7, 2022) (“[O]versight, inadvertence, or mistake does not rise to
11 the level of excusable neglect—much less good cause.”). And in the absence of good cause, the
12 Court declines to exercise its discretion to extend the time for service.

13 Accordingly, the Court DISMISSES this action without prejudice.

14 Dated this 7th day of March, 2023.

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18 John H. Chun
19 United States District Judge
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